

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of	)	
	)	
Administration of the North American	)	CC Docket No. 99-200
Numbering Plan	)	
RNK, Inc. d/b/a RNK Telecom,	)	
Nuvio Corporation, Unipoint	)	
Enhanced Services d/b/a PointOne,	)	
VoEx, Inc., Vonage Holdings Corp.,	)	
DialPad Communications, Inc.	)	
Petition for Limited Waiver of Section	)	
52.15(g)(2)(i) of the Commission's	)	
Rules Regarding Access to	)	
Numbering Resources.	)	

**REPLY COMMENTS OF RNK INC. D/B/A RNK TELECOM**

RNK, Inc. d/b/a RNK Telecom ("RNK") hereby respectfully files these Reply Comments in response to the initial comments filed with respect to the petitions<sup>1</sup> filed by RNK, Nuvio Corporation ("Nuvio"), Unipoint Enhanced Services d/b/a PointOne ("PointOne"), Dialpad Communications, Inc. ("Dialpad"), Vonage Holdings Corporation ("Vonage"), and VoEX, Inc. ("VoEX", collectively, "Other Petitioners") to

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<sup>1</sup> RNK, Inc. *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed February 7, 2005 ("RNK Petition" or "the Petition"); Nuvio Corporation *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed February 15, 2005 ("Nuvio Petition"); UniPoint Enhanced Services d/b/a PointOne *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed March 2, 2005 ("PointOne Petition"); Dialpad Communications, Inc. *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed March 1, 2005 ("Dialpad Petition"); Vonage Holdings Corporation *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed March 4, 2005 ("Vonage Petition"); VoEX, Inc. *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed March 4, 2005 ("VoEX Petition").

obtain a limited waiver of Section 52.15(g)(2)(i) of the Commission's rules.<sup>2</sup> These Reply Comments are submitted pursuant to the *Public Notice* issued by the Wireline Competition Bureau in the above-captioned proceeding.<sup>3</sup>

## I. INTRODUCTION

RNK welcomes this opportunity to respond to some of the issues raised in the various comments, as well as reiterate its belief that the Commission should grant RNK's Petition.

Specifically, RNK wishes to emphasize the following points for the Commission's consideration:

- RNK, is not just willing to comply with the conditions imposed upon SBCIS in the *SBCIS Waiver Order*<sup>4</sup>, but it is **able** to comply with those conditions because of its experience as a LEC and IXC, with an IP-enabled services division;
- RNK will directly (via NPAC) port (both "in" and "out") numbers that it obtains directly from the NANPA (and ported in from other carriers) to/from LECs and CMRS carriers, as it does in its CLEC operations;
- RNK understands concerns regarding numbering conservation, and is willing to fully comply with thousand-block pooling requirements and

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<sup>2</sup> 47 CFR §52.15 (g)(2)(i)

<sup>3</sup> *Wireline Competition Bureau Seeks Comment On RNK, Inc. d/b/a RNK Telecom, Nuvio Corporation, Unipoint Enhanced Services d/b/a PointOne, Dialpad Communications, Inc., Vonage Holdings Corporation, and VoEX, Inc. Petitions for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access To Numbering Resources*, CC Docket 99-200, DA 05-663, (rel. March 11, 2005).

<sup>4</sup> *In the Matter of Administration of the North American Numbering Plan, Order*, FCC 05-20, CC Docket No. 99-200, FCC 05-20 (rel. Feb. 1, 2005) ("SBCIS Waiver Order")

numbering authority delegated from the Commission to states, should it be ordered to do so, as it currently does for its CLEC operations; and

- RNK takes the issues raised regarding 911/E911 seriously, and agrees that, though beyond the scope of *this* proceeding, that comparable 911/E911 interconnection is *essential* and urges that the Commission order incumbent LECs to provide such interconnection as part of its *IP-Enabled Services*<sup>5</sup> proceeding.

## II. DISCUSSION

### A. *RNK HAS SHOWN “GOOD CAUSE” FOR WAIVER AND ITS “FITNESS” TO RECEIVE THE RELIEF REQUESTED*

XO Communications, in its initial comments,<sup>6</sup> asserted that RNK (and the Other Petitioners, generally) has not “demonstrated that [it is] actually capable of complying with the conditions the FCC imposed on SBCIS”<sup>7</sup> and argues that in order to receive this waiver RNK “must demonstrate [that it is] taking the steps necessary to comply with all of the requirements set forth in the SBCIS Waiver Order.”<sup>8</sup> In addition, Qwest Communications International, Inc. (“Qwest”) is concerned—and legitimately so—about the possibility that an entity may try to use this waiver process as a “charade” to evade access charges and other obligations.<sup>9</sup>

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<sup>5</sup> *In the Matter of IP-Enabled Services*, WC Docket No. 04-36.

<sup>6</sup> *Comments of XO Communications, Inc. in Response to the Petitions for Limited Waivers of Section 52.15(g)(2)(i)*, CC Docket 99-200, filed April 11, 2005

<sup>7</sup> XO Comments at p. 6

<sup>8</sup> Id. at p. 9.

<sup>9</sup> *Opposition of Qwest Communications International Inc. to Unipoint Enhanced Services d/b/a PointOne Petition for Limited Waiver*, CC Docket 99-200, filed April 11, 2005 (“Qwest/PointOne Opposition”).

While RNK cannot vouch for the Other Petitioners' capabilities or motives, it can speak to its own qualifications.

First, as stated in its Petition, RNK already possesses numbering resources assigned to it in four states and expanding its CLEC footprint to other states.<sup>10</sup> In those states, RNK participates in thousands-block number pooling, both as a donor and recipient of numbering blocks. RNK also fully participates in Local Number Portability ("LNP") in those areas, both porting "in" numbers for new RNK customers, but also porting "out" numbers for customers who desire to switch to another provider. RNK has also filed, since it became mandatory in 2000,<sup>11</sup> the semi-annual Numbering Resources Utilization and Reporting Form<sup>12</sup> ("NRUF") in its CLEC-certificated areas. The same experienced team that is currently responsible for RNK's numbering administration and compliance will also be responsible for doing so for numbers received by RNK as a result of the grant of its Petition for Waiver.

RNK also desires to state unequivocally that numbering resources obtained directly from NANPA will not be used to "mask" fraudulent or other illegal activity, including the avoidance of "payment of access charges that are lawfully owed to local exchange carriers."<sup>13</sup> As stated in its Petition—and as pointed out by Qwest<sup>14</sup> (distinguishing RNK from one of the Other Petitioners)—RNK offers its IP-enabled

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<sup>10</sup> RNK Petition at p. 13

<sup>11</sup> *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, FCC 00-104, 15 FCC Rcd at 7578 (rel. March 31, 2000) ("NRO Order") at ¶¶37, 67

<sup>12</sup> FCC Form 502

<sup>13</sup> Qwest/PointOne Opposition at p. 2

<sup>14</sup> *Id.* at p.4

services through its RNKVoIP™ division.<sup>15</sup> For the sake of transparency—and ease of administration—RNK is willing to commit to obtaining (at least) a separate Operating Company Number (OCN) for its numbering resources used for interstate (e.g., IP-enabled and similar gateway services) purposes. Finally, RNK agrees with SBCIS’ point that all similarly-situated “waiver recipients [...] be subjected to the same numbering rules and requirements.”<sup>16</sup> The “level playing field”<sup>17</sup> referred to by SBCIS, is, in fact, part of the very reason why RNK requested this waiver in the first place.<sup>18</sup>

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<sup>15</sup> RNK Petition at p.

<sup>16</sup> *Comments of SBC Internet Services Inc.*, CC Docket 99-200, filed April 11, 2005 (“SBCIS Comments”) at p. 1

<sup>17</sup> *Id.*

<sup>18</sup> RNK Petition at p. 12

## ***B. RNK'S COMMITMENT TO LOCAL NUMBER PORTABILITY***

One of the conditions imposed on SBCIS by the Commission was that it was directed to “process[] port requests directly rather than going through a LEC.”<sup>19</sup> Some commenters expressed concern that the *SBCIS Waiver Order* would not “explicitly require” SBCIS (or RNK, if it was to be granted a similar waiver with the same conditions) to comply with number portability regulations.<sup>20</sup> XO,<sup>21</sup> the Maine Public Utilities Commission,<sup>22</sup> and the Nebraska Public Service Commission<sup>23</sup> expressed similar concerns. As stated above and in its initial petition, RNK is well-versed in both the LNP process, and the problems (and abuses) associated with IP-enabled service providers that do not offer “traditional” LNP.<sup>24</sup>

So, for avoidance of all doubt, RNK is willing—and able—to comply with the Commission’s rules regarding LNP<sup>25</sup> and to be treated under such rules no differently than its LEC operation is treated. Accordingly, we also expect that other entities (be they IP-enabled Service Providers, LECs, or CMRS carriers) will honor lawful porting-in requests to RNK and that the Commission will deal harshly with any violations of its rules.

## ***C. NUMBERING RESOURCE CONSERVATION***

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<sup>19</sup> SBCIS Waiver Order at ¶9

<sup>20</sup> *Comments of the Verizon Telephone Companies*, CC Docket 99-200, filed April 11, 2005 (“Verizon Comments”) at p. 2

<sup>21</sup> XO Comments at p. 8-9

<sup>22</sup> *Comments of the Maine Public Utilities Commission*, CC Docket 99-200, filed April 11, 2005 (“Maine PUC Comments”) at p. 2, 5

<sup>23</sup> *Comments of the Nebraska Public Service Commission*, CC Docket 99-200, filed April 11, 2005 (“Nebraska PSC Comments”) at p. 7

<sup>24</sup> RNK Petition at p. 5-6.

<sup>25</sup> 47 CFR §52.23 (a)-(e)

Several of the commenters expressed apprehension about granting RNK's waiver on the basis that it would contribute to premature area code exhaust. First, the California Public Utilities Commission ("CPUC") requests<sup>26</sup> that any waiver grant to RNK and the Other Petitioners be subject to state numbering resource conservation rules, to the extent that such states already exercise authority delegated to them by the FCC. The Maine PUC,<sup>27</sup> Nebraska PSC,<sup>28</sup> and the Michigan Public Service Commission ("Michigan PSC"),<sup>29</sup> indicate a similar desire to require IP-enabled service providers to submit to state oversight. RNK agrees with the CPUC, and these other Commissions, that such submission is appropriate, *provided* that: (1) such oversight is pursuant to and limited to a direct and specific grant of authority from the FCC to the state commission, and (2) that the same compliance is required by this Commission to other entities providing "interstate" services using numbering resources, such as CMRS providers. We urge the Commission to explicitly reject (again) the approach taken by the Ohio Commission, which would require state certification for IP-enabled Services Providers in order to obtain numbering resources.<sup>30</sup> Such a requirement would effectively reverse this

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<sup>26</sup> *Comments of the California Public Utilities Commission and the People of the State of California on Petitions for Limited Waiver*, CC Docket 99-200, filed April 11, 2005 ("CPUC Comments") at p. 3

<sup>27</sup> Maine PUC Comments at p. 3

<sup>28</sup> Nebraska PSC Comments at p. 4, 7

<sup>29</sup> *Comments of the Michigan Public Service Commission*, CC Docket 99-200, filed April 11, 2005 ("MPSC Comments") at p. 3

<sup>30</sup> *Comments of the Public Utilities Commission Of Ohio*, CC Docket 99-200, filed August 16, 2004 (re-filed in response to the *Public Notice* in this matter, on April 11, 2005) at p. 2

Commission’s conclusion in the *Vonage Order*<sup>31</sup> that inconsistent state regulation—including certification—would be preempted.<sup>32</sup>

The Iowa Utilities Board (“IUB”)<sup>33</sup> and the Maine PUC<sup>34</sup> also, in one form or another, would circumscribe RNK’s (and that of the Other Petitioners) ability to directly obtain numbers in areas where incumbent LECs are not required to provide number portability or number pooling. These commissions fear that NPA exhaustion and inefficiency costs would outweigh any benefits. The IUB, ironically, suggests that carriers desiring numbering resources in these rural areas use the same inefficient method currently used by IP-enabled service providers—“purchasing a PRI ISDN line from a [LEC] [...] to interconnect with the public switched telephone network.”<sup>35</sup> RNK will not reiterate the problems with such inferior interconnection.<sup>36</sup>

RNK also realizes that the difficult balance that must be maintained between and among Congress’ directive that the United States “promote the continued development of the Internet” and “encourage the deployment” of advanced telecommunications capabilities;<sup>37</sup> the intent of Section 251(a) of the Act,<sup>38</sup> requiring telecommunications carriers to “directly or indirectly” interconnect with

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<sup>31</sup> *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission, Memorandum Opinion and Order (“MO&O”),* WC Docket No. 03-211, FCC 04-267 (released November 12, 2004, hereinafter, “Vonage Order”) at ¶32, “Indeed, the practical inseverability of other types of IP-enabled services having basic characteristics similar to DigitalVoice would likewise preclude state regulation...and counsels against patchwork regulation.”

<sup>32</sup> *Id.*

<sup>33</sup> IUB Comments at p. 3

<sup>34</sup> Maine PUC Comments at p. 4-5

<sup>35</sup> IUB Comments at p. 3

<sup>36</sup> *See* RNK Petition at p. 4-6

<sup>37</sup> 47 USC 230(b)(1)

<sup>38</sup> 47 USC 251(a)



each other; and the so-called “rural exemption” of Section 251(f)(1) and (2)<sup>39</sup> that generally exempts rural carriers from certain interconnection and compensation requirements, and the corresponding relief given to rural carriers from pooling and/or porting requirements.<sup>40</sup> RNK disagrees with these state commissions that competition in these rural areas will necessarily result in numbering “waste.”<sup>41</sup> RNK recognizes that rural incumbents’ situation is unique, however, and urges the Commission, in its *IP-Enabled Services* proceeding, achieve this balance by requiring rural ILECs to provide, at the very least, “Wireless Type 1”-equivalent<sup>42</sup> interconnection as an interim solution.

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<sup>39</sup> 47 USC 251(f)(1)-(2)

<sup>40</sup> See e.g., 47 CFR §52.20(b) (limiting the application of number pooling) and 47 CFR §52.23 (b)(1) (exempting carriers outside the top 100 MSAs from implementing local number portability)

<sup>41</sup> Maine PUC Comments at p. 4

<sup>42</sup> *In the Matter of The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, Declaratory Ruling, Report No. CL-379, 2 FCC Rcd 2910, 2913-2914 (1987). See also *SBCIS Waiver Order* at ¶6.

#### ***D. 911 IS IMPORTANT, BUT SHOULD BE ADDRESSED SEPARATELY***

Some commenters argue that requiring access to 911 or enhanced 911 (“E911”) should be a prerequisite to granting RNK’s Petition.<sup>43</sup> First, to be clear, RNK would prefer to provide access to 911 or E911 to all of its IP-enabled customers. In fact, in RNK’s CLEC footprint<sup>44</sup> RNK does offer E911 service, leveraging its current LEC E911 trunks to the incumbent LEC’s selective router. It is correct, that SBC, like other ILECs, offers ***CLECs*** the ability to interconnect for E911 purposes.<sup>45</sup> However, in states outside its CLEC footprint, RNK would not be able to purchase E911 interconnection on the same terms, conditions, and at the same rates as SBCIS or any CLEC.<sup>46</sup> Absent a Commission requirement, however, forcing ILECs to provide such access by tariff or agreement at reasonable prices, the imposition of such a requirement would be beyond the scope of this proceeding. We also remind the Texas Alliance that other measures, short of actually providing E911, would address the concerns of the Texas Attorney General’s Office<sup>47</sup> and are being implemented by RNK today as *interim* measures for “fixed-mode”<sup>48</sup> customers in

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<sup>43</sup> See Nebraska PSC Comments at p. 6; *Initial Comments of the Texas 9-1-1 Alliance*, CC Docket 99-200, filed April 11, 2005 (Texas Alliance Comments) at p. 2-5.

<sup>44</sup> Massachusetts, New Hampshire, Rhode Island, and New York (LATA 132)

<sup>45</sup> Texas Alliance Comments at p. 5

<sup>46</sup> See, e.g., Verizon New York Inc., NYPSC Tariff No. 8, §11.2

<sup>47</sup> *State v. Vonage Holdings Corp.*, Cause No. GV500657 (Tex. 200 J.D. 2005) (Compl. ¶11.2.) The Texas Attorney General, in this case, contends that Vonage should have “disclose[d] that a customer must take affirmative action to activate the consumer’s account capability to dial 9-1-1,” informed its customers regarding the “all of the differences between [Vonage’s] “911” feature and traditional 9-1-1 service,” and not advertised its “911 service” where Vonage “[did] not have access to the 9-1-1 network.”

<sup>48</sup> *Comments of NENA* (National Emergency Number Association), CC Docket 99-200, filed April 11, 2005 at fn. 2 (“NENA Comments”)

areas outside of RNK's CLEC footprint and generally for "nomadic" customers, for whom there is currently no industry-available VoIP 911/E911 solution.<sup>49</sup>

We agree with the National Emergency Number Association ("NENA") that imposing such a requirement *now* is unnecessary, when grant of a waiver would be conditioned on the FCC's ultimate findings in the *IP-enabled Proceeding* should "be sufficient."<sup>50</sup> We also agree with NENA's request that E911 issues be put on an "accelerated path" in *that* proceeding. RNK looks forward to working with NENA, the Texas Alliance, and other interested parties in that context and would welcome direct dialogue with both public safety agencies and ILECs to make "VoIP E911" a reality.

### III. CONCLUSION

For all of the reasons stated herein, and those in RNK's initial petition, RNK again requests that the Bureau expeditiously grant its Petition for Limited Waiver of 47 C.F.R. §52.15(g)(2)(i) to allow RNK direct access to numbering resources for purposes of offering IP-enabled services.

Respectfully Submitted,

/s/

Douglas S. Denny-Brown  
General Counsel/V.P. Regulatory

Affairs

RNK, Inc. d/b/a RNK Telecom

April 26, 2005

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<sup>49</sup> However, we are exploring different solutions for "nomadic" customers, among them requiring re-notification of address or location changes for less transient moves.

<sup>50</sup> NENA Comments at p. 2